IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 17836 of 2007(W)

PETITIONER:

BABU.O.S., S/O.P.S.SAMUEL,
VOOLAKKAMATTATHIL, THOTTAKKAD,
PUTHUPPALLY, KOTTAYAM DIST.

BY ADV. SRI.N.MAHESH

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
VAKATHANAM POLICE STATION,
VAKATHANAM, KOTTAYAM DIST.

2. THE SUPERINTENDENT OF POLICE,
KOTTAYAM.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.17836 OF 2007

DATED THIS THE 3rd DAY OF AUGUST, 2007

JUDGMENT

The counsel for the petitioner is absent. Heard the learned Government pleader.

2. The contention of the petitioner is that the respondents have initiated criminal proceedings against the petitioner for violation of the Kerala Captive Elephants (Management and Maintenance) Rules 2003 (Kerala) in respect of the elephants maintained by the petitioner by issuing Ext.P1. The petitioner challenges Ext.P1 notice on the ground of want of jurisdiction on the part of the respondents. The contention is that it is the Chief Wild Life Warden of the concerned State or any other officer authorized by him, who is empowered under the Wild Life Protection Act and Rules to take proceedings under the Act and Rules.

3. The learned Government pleader points out that as per Section 50 of the Wild Life Protection Act, a police officer not below the rank of Sub Inspector of Police has power to enter, search, arrest and detain a person, if there is reasonable ground to suspect that such person has committed an offence under the Act. He also refers to the penalties under Section 51 for violations of the provisions of the Act.

It is pointed out that the Kerala Captive Elephants (Management and Maintenance) Rules 2003 (Kerala) has been promulgated in accordance with Section 64 of the Wild Life Protection Act. The 1st respondent has ample power to initiate proceedings under the Rules and therefore, Ext.P1 is perfectly valid and proper is the contention of the learned Government pleader.

After hearing I am satisfied that the petitioner's contention cannot be countenanced. In any event, Ext.P1 is only a show cause notice directing the petitioner to compound the offence giving the petitioner an opportunity to compound the offence. It would be open to the petitioner either to compound the offence or to contest the prosecution proceedings on merits. Without prejudice to such right, this writ petition is dismissed.

S. SIRI JAGAN, JUDGE

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